

1 girlfriend/wife soon returned to the bar and after a brief
2 conversation, LUONG asked CS-7 to step outside to LUONG's car for
3 a few minutes. The DEA/UCA gave CS-7 \$9000.00 in official
4 government funds. CS-7, LUONG and LUONG's girlfriend/wife then
5 departed the restaurant. The three were surveilled to a blue
6 Toyota bearing California license plate #3KJF747, which they all
7 entered. According to California DMV, 3KJF747 is registered to
8 Sy LUONG, 8000 Rush River Drive, Apt. 226, Sacramento,
9 California. CS-7 gave LUONG the \$9000 while LUONG's girlfriend
10 watched. CS-7 got \$500 back from LUONG. CS-7 then exited the
11 vehicle and LUONG and his girlfriend were observed driving away
12 from the area. As had been established in earlier conversations,
13 the \$9000 payment was for 3 ounces of heroin previously "fronted"
14 by LUONG to CS-7.

15 53. Cellular telephone records for (916) 203-6688 confirm
16 the April 17 and 18, 1995 telephone calls between LUONG and CS-7.
17 In addition, physical surveillances in Sacramento and San
18 Francisco, and the presence of undercover agents corroborate the
19 details of the transaction.

20 3) JUNE/JULY 1995 NEGOTIATIONS WITH LUONG FOR ONE HALF UNIT
21 OF HEROIN

22 54. The following sequence of consensually monitored calls
23 were made by CS-7 to LUONG for the purpose of negotiating the
24 purchase of 1/2 unit of heroin. The calls were made by CS-7 from
25 San Francisco, California and at the direction of law
26 enforcement. A review of telephone records reveal a pattern of
pager calls from CS-7 to LUONG's pager (916) 951-1722 and return

1 calls from LUONG using cloned cellular telephone number (916)
2 204-6889. The most recent series of discussions regarding the
3 purchase of heroin involve LUONG, CS-1 and CS-7.
4

5 a. Telephone Call of June 7, 1995

6 55. On June 7, 1995, CS-7 placed one telephone call to
7 pager number (916) 951-1722 and entered a call back number.
8 Shortly afterwards, CS-7 received a return call from LUONG. CS-7
9 recorded the call during which CS-7 and LUONG discussed the
10 purchase of 1/2 unit (350 grams) of heroin by CS-7 from LUONG.
11 At the conclusion of the discussion, LUONG agreed to sell CS-7
12 1/2 unit of heroin for \$28,000.

13 56. FBI Special Agent Stephen Dupre contacted a
14 representative of Air Touch Cellular One, Sacramento, CA. to
15 determine whether any calls had been made from their service area
16 to the telephone number CS-7 had entered during his pager call to
17 (916) 951-1722 on June 7, 1995. Special Agent Dupre was advised
18 that on June 7, 1995, mobile telephone number (916) 204-6889 was
19 used to contact the telephone number entered by CS-7 during this
20 pager call.

21 b. Telephone Call of June 9, 1995

22 57. On June 9, 1995, CS-7 placed a telephone call to pager
23 number (916) 951-1722 and entered a call back number. CS-7
24 received ~~a~~ return call from an individual identified by CS-7 as
25 being LUONG. CS-7 consensually recorded the call. CS-7 and
26 LUONG entered into discussions pertaining to the purchase of
heroin by CS-7 from LUONG. LUONG told CS-7 that he did not wish
to break up a one-unit brick of heroin in order to sell 1/2 unit

1 to CS-7. CS-7 told LUONG that the buyer(s) did not have enough
2 money available to purchase the entire unit brick. CS-7 stated
3 that the buyer would come back in approximately 3 to 4 weeks to
4 purchase the other 1/2 of the unit. LUONG suggested that the
5 buyer(s) put down a \$10,000 deposit. CS-7 stated that it was too
6 much, perhaps two to three thousand dollars might be possible.
7 CS-7 told LUONG that if the buyer(s) do not return to purchase
8 the second 1/2 of the unit with the agreed time frame, the
9 deposit would be forfeited.

10 58. FBI Special Agent Dupre advised that according to Air
11 Touch Cellular One records, on June 9, 1995, mobile telephone
12 number (916) 204-6889 had been used to contact the telephone
13 number entered by CS-7 during his pager call.

14 c. Telephone Call of June 12, 1995

15 59. On June 12, 1995, CS-7 placed a telephone call to pager
16 number (916) 951-1722 and entered a call back number. CS-7
17 received a return call from LUONG during which CS-7 recorded the
18 call. CS-7 and LUONG entered into negotiations relative to the
19 purchase of heroin by CS-7 from LUONG. LUONG told CS-7 that he
20 would sell 1/2 of a unit brick of heroin for \$30,000; however,
21 CS-7 would be required to pay an additional \$10,000 which would
22 be considered as a deposit for the other 1/2 of the one-unit
23 brick. ~~CS-7~~ told LUONG that it would be to 3 to 5 weeks before
24 the buyer(s) would purchase the other 1/2 of the unit brick.
25 LUONG told CS-7 that he (CS-7) would lose the \$10,000 deposit if
26 he did not purchase the other 1/2 of the unit brick within the
 allotted 3 to 5 weeks. LUONG told CS-7 he wanted \$60,000 for one

1 unit, not \$58,000 as previously quoted.

2 60. Special Agent Dupre advised that according to Air Touch
3 Cellular One's records on June 12, 1995, mobile telephone number
4 (916) 204-6889 had been used to contact the telephone number
5 entered by CS-7 during his pager call.

6 d. Telephone Call of June 13, 1995

7 61. On June 13, 1995, CS-7 placed a telephone call to pager
8 number (916) 951-1722 and entered a call back number. CS-7
9 received a return call from LUONG during which CS-7 recorded the
10 call. CS-7 and LUONG continued negotiations for the purchase of
11 heroin by CS-7 from LUONG. LUONG told CS-7 that he would not
12 sell 1/2 unit of heroin for less than \$30,000. LUONG was also
13 firm on his requirement of payment of \$10,000 which would be
14 applied as a deposit for the other 1/2 of the one unit heroin
15 brick.

16 62. During this conversation, CS-7 agreed to the terms of
17 purchase as sought by LUONG. CS-7 agreed to pay \$30,000 to LUONG
18 for the purchase of one half unit of heroin and give a \$10,000
19 deposit for the remaining one half unit. CS-7 asked LUONG to give
20 him three ounces of heroin as a guarantee that when the buyer(s)
21 returned for the second one half unit, that LUONG would deliver.
22 LUONG was unwilling to provide the 3 ounces requested by CS-7.
23 LUONG ~~stated~~ that his merchandise was the best available in the
24 market and that he would always have it available.

25 63. Following an agreement on the terms of the sale, LUONG
26 then gave CS-7 directions to meet in Sacramento, CA. LUONG told
CS-7 to bring a scale which would be used by LUONG to weigh the

heroin to be delivered to CS-7. LUONG told CS-7 to proceed to a McDonalds near or on Pocket Road in Melville, CA on 6-14-95. Upon his arrival at the McDonalds, CS-7 was told to call LUONG's pager ((916) 951-1722). LUONG stated that he resided nearby and would contact CS-7 upon receipt of the pager call.

e. Telephone Call of June 14, 1995

64. On June 14, 1995, LUONG called CS-7 at approximately 7:30 am. CS-7 did not expect the call and was unprepared to record the conversation. During this unrecorded call, CS-7 reported to DEA Agents that LUONG told CS-7 that the heroin was not readily available. LUONG stated that it may be up to 3 days before he could complete the heroin transaction.

f. Telephone Call of June 20, 1995

65. On June 20, 1995, CS-7 called LUONG to ask when LUONG would have the heroin available, for sure. CS-7 recorded this call to LUONG. CS-7 told LUONG that the buyer was upset. LUONG stated that he would have the heroin possibly on Tuesday (6/27/95). LUONG indicated during the conversation that his heroin supplier would not do small amounts and no sample of the current product was available to give to CS-7. LUONG suggested CS-7 attempt to buy heroin from another source such as "HOANG" (LE, Hoang Ai), but CS-7 stated the buyer did not like HOANG's merchandise because it was of inferior quality. LUONG said he would contact CS-7 when he had the heroin, possibly before Tuesday.

g. Telephone Call of June 23, 1995

66. On June 23, 1995, CS-1 spoke to LUONG at approximately

1 2:00 am. CS-1 did not expect to talk to LUONG and was not at a
 2 location in which a recording would be possible. During this
 3 unrecorded conversation, CS-1 asked about the possibility of
 4 doing another deal (heroin deal) in the near future. LUONG
 5 indicated that it was not convenient to discuss such matters over
 6 the phone and for CS-1 to travel to Sacramento to speak with him.
 7

8 h. July, 1995 Calls and Meetings With LUONG

9 67. On July 4, 1995, CS-1 spoke to LUONG following a pager
 10 call by Manson QUACH⁸ to LUONG. During the conversation, LUONG
 11 indicated that he wanted to meet CS-1 in person to discuss any
 12 (heroin) deal. LUONG told CS-1 to travel from San Francisco to
 13 Sacramento and upon arrival in Sacramento to page him.

14 68. On July 11, 1995⁹, CS-1 and QUACH traveled to
 15 Sacramento to meet with LUONG to discuss a heroin transaction.
 16 QUACH placed a pager call to (916) 951-1722 and entered a call
 17 back number. QUACH was paged to (916) 204-6889. QUACH then
 18 placed a call to that number and spoke with LUONG. LUONG told
 19 QUACH to remain at his present location and that LUONG would
 20 arrive in 15 minutes or so.

21 69. Surveillance at QUACH's location observed a copper

22 ⁸During the July, 1995 negotiations for heroin with LUONG,
 23 QUACH (CS-7) did not report any of the following contacts or calls
 24 to LUONG to law enforcement. On July 20, 1995, CS-7 reported to
 25 Sergeant McKenna that he had heard CS-1 was traveling to New York
 deal at all.

26 ⁹On July 11, 1995, prior to QUACH's (CS-7) trip to Sacramento,
 27 Sgt. McKenna specifically asked QUACH if he was engaged in or had
 28 knowledge of any drug trafficking during this time period to which
 29 QUACH responded in the negative.

1 colored Mercedes bearing California License Number 3MBP571,
2 registered to Ping Sherry CHAN, 8201 White Sands Way, Sacramento,
3 California, stop briefly and QUACH and CS-1 enter the vehicle.
4 The vehicle then left the area containing QUACH, CS-7 and an
5 Asian male. Surveilling Agents identified the driver of the
6 Mercedes to be LUONG. According to the reports from CS-1 and
7 surveilling agents, LUONG conducted countersurveillance measures
8 upon departure from the initial pick-up location.
9

10 70. LUONG told CS-1 and QUACH that the cost of one unit
11 would be \$60,000 and that QUACH would receive \$5-6,000. LUONG
12 said he has to know by tomorrow whether the buyer(s) will be
13 ready to purchase no less than one unit of heroin. LUONG
14 indicated that the heroin deal could be done within the week if
15 CS-1 would travel to New York. CS-1 told LUONG that he would
16 call him the next day. CS-1 identified LUONG as being the driver
17 of the Mercedes in which CS-1 and QUACH were picked up.
18

19 71. On July 12, 1995, while in San Francisco, CS-1 called
20 pager number (916) 951-1722 and entered a call back number. CS-1
21 received a return call from LUONG. The conversation between CS-1
22 and LUONG was recorded. CS-1 told LUONG that he would not be
23 able to travel to New York this week and asked LUONG how long he
24 would be staying in New York. LUONG stated he would still be
25 able to ~~meet~~ CS-1 next week Thursday in New York, and that he
26 (LUONG) could be reached on his pager (916) 951-1722 from
anywhere in the country.

72. On July 17, 1995, CS-1 called pager number (916) 951-
1722 and entered a pager number and CS-1's code. CS-1 received a

1 page to LUONG's cellular number (916) 204-6889. The conversation
2 between CS-1 and LUONG was recorded. CS-1 asked LUONG if he
3 would be in New York on Thursday to do the deal. LUONG told CS-1
4 that he would be introducing CS-1 to one of his "boys" who would
5 travel to New York to take care of the deal. Later that evening,
6 CS-1 met LUONG at a night club in San Francisco. CS-1 was
7 introduced to an unidentified Asian male by LUONG. LUONG
8 referred to this individual as "CHEONG JAI". CS-1 was told that
9 upon arrival in New York, CS-1 was to page LUONG on pager number
10 (916) 951-1722 and provide a telephone number at which CS-1 could
11 be reached. LUONG would then contact "CHEONG JAI" and his
12 associate in New York to meet CS-1 and do the deal. The date for
13 the deal was set for July 22, 1995.
14

15 4) ONE UNIT HEROIN PURCHASE ON 7/23/95

16 a. July 21, 1995

17 73. On July 21, 1995, CS-1 placed a pager call to (916)
18 951-1722 and entered a call back number. Shortly afterward CS-1
19 received a call back from LUONG. During the conversation, CS-1
20 advised that he had arrived in New York and was prepared to go
21 forth with the heroin purchase previously discussed. LUONG
22 stated that his people were already present in New York and he
23 would call his representative to contact CS-1. After waiting for
24 an extended period, CS-1 called LUONG a second time to determine
25 the nature of the delay. LUONG stated that he would call his
26 representative again to contact CS-1. Following the second
conversation with LUONG, CS-1 received a telephone call from
"CHEONG JAI" (this was the individual introduced to CS-1 on July

1 17, 1995, by LUONG). "CHEONG JAI" stated that he would contact
2 CS-1 the next day to discuss the deal. A check of telephone toll
3 records for LUONG's telephone revealed two calls to CS-1's
4 telephone.

5 b. July 22, 1995

6 74. On July 22, 1995, CS-1 received a telephone call from
7 "CHEONG JAI" and was invited to meet at a restaurant in Brooklyn,
8 New York. CS-1 was unable to meet at the appointed time with
9 "CHEONG JAI", and was told that contact would be made the next
10 day.

11 c. July 23, 1995

12 75. On July 23, 1995, CS-1 contacted "CHEONG JAI" and
13 agreed to meet with him at the same location as was previously
14 discussed. CS-1 met with "CHEONG JAI" for a short period of time
15 and then was introduced to a second Asian male referred to as
16 "JOE". "JOE" was noted by surveilling agents to be carrying a
17 bag containing a box. CS-1, "CHEONG JAI" and "JOE" walked around
18 the area in an attempt to find a location to meet. All locations
19 appeared to be too crowded. CS-1 suggested that they just do the
20 transaction quickly. "JOE" handed the bag to "CHEONG JAI" who in
21 turn handed it on to CS-1. After receipt of the bag, CS-1 asked
22 "CHEONG JAI" about how payment would be accomplished. "CHEONG
23 JAI" told CS-1 that he would contact him later with the details.
24 CS-1 departed the area and met up with FBI Special Agents who
25 took custody of the bag and its contents.

26 76. While meeting with FBI Special Agents, CS-1 received a
call from LUONG. LUONG asked if CS-1 had received the "stuff"

(heroin) and asked about the payment. CS-1 replied that the
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money was at the hotel and stated that he had previously invited
"CHEONG JAI" and "JOE" to follow him to the hotel to receive the
money. CS-1 offered to bring the money back to California and
personally deliver it to LUONG. LUONG replied that he would send
his people over to CS-1's hotel to pick up the money. LUONG told
CS-1 that his people would be calling shortly. After hanging up
with LUONG, CS-1 received a call from "CHEONG JAI" and provided
him with directions to the hotel. "CHEONG JAI" then gave the
phone to "JOE" who asked CS-1 if he had gotten rid of the "stuff"
to which CS-1 replied in the affirmative. A short time later
"CHEONG JAI" and "JOE" were observed arriving at CS-1's location.
"JOE" was observed meeting with CS-1 and receiving payment for
the heroin. A check of the pen register for telephone number
(916) 204-6889 revealed one call to CS-1's telephone during the
pertinent time period discussed above.

D. LUONG'S CELLULAR TELEPHONES/PAGERS

77. As indicated above, LUONG usually carries and
frequently uses cellular telephones and pagers. Several of the
the cellular phones which LUONG has been utilizing have been
found to be cloned, which means that a legitimate subscriber's
MIN and ESN have been fraudulently duplicated or subscribed to in
nominee names. It was explained to me that a compromised or
cloned phone is an unauthorized mobil phone being used in
conjunction with a legitimate mobile phone number. The charges
for calls made on a clone mobile phone will appear on the bill
for the legitimate mobile phone. When the cellular telephone

1 company notices an inordinate increase in the number of calls on
2 a particular account, or when a legitimate customer denies making
3 many of the calls appearing on his or her bill, the cellular
4 telephone companies investigate for fraud and, if they find it,
5 terminate service to that number. Therefore, a clone phone
6 normally can be operated for approximately one month before a
7 bill is issued, the fraud is discovered, and the number is then
8 terminated.

9 78. To clone a mobile phone, the person would obtain the
10 Electronic Serial Number (ESN) and phone number (MIN) of a
11 legitimate phone. This information is then programmed into the
12 clone phone. There are two ways to obtain the ESN and the MIN of
13 a legitimate phone: (1) by having access to service orders of the
14 mobile phone companies, or (2) by using a scanning device that
15 can read these numbers from cellular phones. In either instance,
16 a degree of expertise and technical knowledge is needed to
17 activate a clone phone.

18 79. To my knowledge, none of the cellular phones or pagers
19 used by LUONG has been subscribed to in LUONG's name, just as
20 none of the cars he drives are registered in his name. LUONG
21 also frequently uses digital pagers subscribed in nominee names
22 or leased by companies which are known to inform lessees of
23 inquiries ~~regarding~~ ^{to} subscribers information, made by law
24 enforcement.

25 80. It is apparent through investigation that narcotics
26 traffickers must, out of necessity, utilize telephones in order
to conduct their criminal activity. Investigation has also shown

1 that narcotics traffickers seldom have telephones subscribed to
2 in their own names. Your affiant believes that narcotics
3 traffickers, such as LUONG, use this subterfuge to thwart the
4 efforts of law enforcement in identifying them. It is your
5 affiant's belief, based on investigation described herein, that
6 LUONG and a few close associates utilize clone cellular
7 telephones, residential telephones, business telephones, motel
8 telephones, and digital beepers in order to carry out their
9 criminal activities. Your affiant believes that LUONG and his
10 co-conspirators are sophisticated narcotics traffickers due to
11 the fact that LUONG uses clone cellular telephones in conjunction
12 with the use of their digital pagers. LUONG is known to utilize
13 his pager to alert him when to activate the cloned phone which he
14 is using. LUONG also uses telephones subscribed to in another
15 person's name, automobiles registered in another person's name,
16 and is known to carry and use false identification in encounters
17 with law enforcement officials. All of the above described
18 actions taken by LUONG appear to be for the purpose of evading
19 law enforcement scrutiny.

20 81. Investigation has shown that LUONG frequently changes
21 cellular telephones and pagers in an effort to evade law
22 enforcement surveillance. CS-1, CS-4, CS-6, and CS-7 have
23 advised ~~that~~ LUONG frequently changes cellular phones and pagers.
24 I believe that LUONG used cellular telephone number (713) 857-
25 5462 on February 9-10, 1995. I believe that LUONG used cellular
26 telephone number (916) 296-9703 from February 22 to March 19,
1995. I believe that he then switched to cellular telephone

1 number (916) 203-6680 from April 14 to May 8, 1995. I believe
 2 that LUONG is currently using cellular telephone number (916)
 3 204-6889. Similarly, LUONG used pager number (617) 263-9006 from
 4 approximately May, 1994 to January, 1995; (800) 505-2905 from
 5 approximately July, 1994 to August, 1994; and number (800) 709-
 6 8276 from approximately January, 1995 to March, 1995. Your
 7 affiant believes LUONG is presently using pager number (916) 951-
 8 1722.

9 82. These conclusions are based upon an analysis of
 10 telephone toll records, cellular telephone billing records, pen
 11 registers, trap and trace devices, and pager subscriber and
 12 billing records. The details of this analysis are provided
 13 below.

14 1) LUONG's Cellular Telephones

15 Mobile Telephone Number (713) 857-5462

16 83. I believe LUONG used mobile telephone number (713) 857-
 17 5462 on February 9-10, 1995. Cellular service for this phone was
 18 supplied by Houston Cellular, Houston, Texas. A representative
 19 of Houston Cellular advised that the phone was subscribed to in
 20 the name Stephan Vestal, Houston, Texas. It appears that the
 21 telephone billing contained unauthorized calls in February, 1995.
 22 This telephone number was used by LUONG during the negotiation
 23 and ~~purchase~~ of 1/2 unit of heroin from LUONG and his associates.
 24 During the purchase of 1/2 unit of heroin on February 10, 1995,
 25 LUONG utilized this cloned cellular telephone, his home telephone
 26 (916) 393-8236, and his pager (800) 709-8276, to facilitate the
 transaction which is described in section IV(C)(1).

Mobile Telephone Number (916) 296-9703

84. I believe LUONG used mobile telephone number (916) 296-9703 for the period beginning February 22, 1995 through March 19, 1995. Cellular service for this phone was supplied by Air Touch Cellular One, Sacramento, CA. A representative of Air Touch Cellular One advised FBI Special Agent Stephen Dupre that the telephone was subscribed to the Fillner Construction Company, Sacramento, CA. Special Agent Dupre was also advised that the telephone had been compromised, i.e. "cloned". Air Touch Cellular One confirmed that they had been notified by the legitimate subscriber to (916) 296-9703 who denied responsibility for the increased cellular phone activity reflected in their March, 1995 billing. Upon customer notification of unauthorized use of the telephone, Air Touch Cellular One terminated service to (916) 296-9703 in late March, 1995.

85. In addition, I learned of LUONG's usage of (916) 296-9703 from CS-1 who advised me in February, 1995 that LUONG could be contacted by calling that number. In subsequent debriefings, CS-7 confirmed that LUONG was using cellular telephone (916) 296-9703. On March 3, 1995, CS-1 spoke to LUONG regarding the price of heroin. LUONG was willing to sell #4 heroin for \$72,000 per unit or \$36,000 per 1/2 unit. LUONG's cost is about \$65,000 per unit from ~~an~~ an east coast supplier. LUONG would be leaving the west coast for a one week visit to the east coast. A review of toll records for cellular telephone (916) 296-9703 reveals a call to CS-1's location on March 3, 1995 as reported by CS-1.

86. Telephone toll records were obtained for (916) 296-9703

1 for the period January 24, 1995 through March 23, 1995. I
2 reviewed the telephone toll records for calls placed from (916)
3 296-9703 and believe that LUONG was the primary illegal user of
4 the telephone for the period February 22, 1995 through March 19,
5 1995. These calls are provided to show the pattern of frequently
6 called numbers by LUONG, and that he is often contacting numbers
7 associated with known or suspected narcotics dealers/locations
8 and individuals with criminal arrest records:

9 i. (617) 825-3528 - had been called 34 times and is
10 subscribed to Bach Trinh NGUYEN. The NGUYEN residence is a
11 location known to Boston law enforcement authorities to be the
12 site of narcotics trafficking.

13 ii. (215) 227-2083 - had been called 3 times and is
14 subscribed to Qi Dan CHEN. Though the telephone is subscribed to
15 CHEN, investigation by FBI Philadelphia has determined that the
16 residence is occupied by Sau Hung YEUNG, a known heroin dealer
17 who is a close associate of LUONG.

18 iii. (415) 334-8478 - had been called 62 times and is
19 subscribed to To LOI. To LOI is believed to be the mother of
20 Xuong Manh QUACH. QUACH was and is still residing at the family
21 residence.

22 iv. (415) 520-7168 - had been called 19 times and is the
23 pager used by Manson Xuong QUACH.

24 v. (415) 264-8999 - had been called 34 times and is
25 subscribed to Goldie LEE. According to LE's probation officer,
26 LEE is the fiancee to Hoang Ai LE. LE participated with LUONG in
 the sale of 1/2 unit of heroin to CS-1 on February 10, 1995. Le

1 has been arrested in the past for cocaine trafficking.

2 vi. (415) 560-3902 - had been called 35 times and is the
3 *
4 pager used by Hoang Ai LE. This is the pager number given by LE
to CS-1 during the deal on February 10, 1995.

5 vii. (510) 436-6568 - had been called 30 times and is
6 subscribed to Ly T. TRAN. Though subscribed to TRAN, Oakland
7 Police Department records show that Tony Bao Quoc LY has been
8 associated with this phone number. LY is a close associate of
9 LUONG and Hoang Ai LE. LY has been arrested in the past for
10 receiving stolen property and possession of a firearm.

11 viii. (916) 383-2963 - had been called 41 times and is
12 subscribed to Muoi LAM. It is believed that this number is being
13 utilized by Huy Chi LUONG, aka Jimmy. INS records show that LAM,
14 is the mother of Huy Chi LUONG.

15 ix. (917) 918-0717 - had been called 11 times and is
16 subleased to E5 Communications, 200 Center Street, New York, New
17 York. FBI New York investigation of this company has determined
18 that it serves numerous gangs in Chinatown and in the past when
19 served with a subpoena, have provided false subscriber
20 information and notified the actual subscriber of law enforcement
21 interest.

22 x. (510) 655-4789 - had been called 28 times and is
23 subscribed to Lien Dinh. Although subscribed to by Dinh,
24 investigation shows that this address is associated with LUONG's
25 associate AH MUOI.

26 87. During the period March 20, 1995 through April 14,
1995, the mobile telephone number used by LUONG was not known.

1 Mobile Telephone Number (916) 203-6688
2

3 88. I believe LUONG used mobile telephone number (916) 203-
 4 6688 during the period April 14, 1995 through May 8, 1995.
 5 Cellular service for this phone was supplied by Air Touch
 6 Cellular One, Sacramento, CA. A representative of Air Touch
 7 Cellular One advised FBI Special Agent Stephen Dupre that the
 8 phone was subscribed to Steve LU, Davis, CA. This telephone
 9 number was terminated due to lack of payment, but has since been
 10 reconnected by the same subscriber.

11 89. I learned of LUONG's usage of (916) 203-6688 from CS-1
 12 who advised me on April 18, 1995 that LUONG could be contacted by
 13 calling that number. In debriefings, CS-7 provided the same
 14 information regarding the use of (916) 203-6688 by LUONG. 90.
 15 Telephone toll records were obtained for (916) 203-6688 for the
 16 period April 14, 1995 through May 8, 1995. I reviewed the
 17 telephone toll records and believe that LUONG was the primary
 18 user of the telephone for the period April 15, 1995 through May
 19 6, 1995. During this period, amongst the numerous calls placed,
 20 the following calls were made to telephone numbers associated
 21 with known or suspected narcotics dealers/locations:

22 i. (617) 825-3528 - had been called 29 times and is
 23 subscribed to Bach Trinh NGUYEN (see above paragraph 86(i)).

24 ii. ~~(215)~~ 227-2083 - had been called 1 time and is
 25 subscribed to Qi Dan CHEN (see above paragraph 86(ii)).

26 iii. (415) 334-8478 - had been called 4 times and is
 27 subscribed to To LOI (see above paragraph 86(iii)).

28 iv. (415) 546-9710 - had been called 11 times and is

1 subscribed to the Chi-Am Restaurant, San Francisco, CA. The Chi-
 2 Am Restaurant is a location frequently patronized by QUACH and
 3 QUACH is known to have conducted drug transactions at this
 4 location.

5 v. (510) 436-6568 - had been called 10 times and is
 6 subscribed to Ly T. TRAN (see above paragraph 86(vii)).

7 vi. (916) 383-2963 - had been called 61 times and is
 8 subscribed to Muoi LAM (see above paragraph 86(viii)).

9 vii. (917) 918-0717 - has been called 2 times and is
 10 subscribed to by E5 Communications (see above paragraph 86(ix)).

11 Mobile Telephone Number (916) 204-6889

12 90. On June 5, 1995, investigation to identify usage of
 13 mobile telephone by LUONG determined that he was using telephone,
 14 number (916) 204-6889. Cellular service for this phone was
 15 supplied by Air Touch Cellular One, Sacramento, CA. A
 16 representative of Air Touch Cellular One advised FBI Special
 17 Agent Stephen Dupre that the telephone was subscribed to by Katie
 18 Dam, Sacramento, California.

19 91. Telephone toll records for (916) 204-6889 were obtained
 20 for the period 5-20-95 through 6-20-95. I reviewed the
 21 telephone toll records and believe that LUONG was the primary
 22 user of the telephone during this period. During this period,
 23 amongst ~~the~~ numerous calls placed, the following calls were made
 24 to telephone numbers associated with known or suspected narcotics
 25 dealers/locations:

26 i. (617) 825-3528 - had been called 3 times and is
 subscribed to Bach Trinh NGUYEN (see above paragraph 86(i)).

1 ii. (415) 334-8478 - had been called 6 times and is
2 subscribed to To LOI (see above paragraph 86(iii)).

3 iii. (916) 383-2963 - had been called 5 times and is
4 subscribed to Muoi LAM (see above paragraph 86(viii)).

5 iv. (917) 918-0717 - has been called 9 times and is
6 subscribed to by E5 Communications (see above paragraph 86(ix)).

7 92. Telephone toll records for (916) 204-6889 were obtained
8 for the period 7-7-95 through 7-12-95. A pen register was placed
9 on this number beginning 7-21-95. I reviewed the toll and pen
10 register records for this telephone number and believe that LUONG
11 continued to be the primary user of this telephone. During the
12 periods listed above, the following calls were made to telephone
13 numbers associated with known or suspected narcotics
14 dealers/locations:

15 i. (415) 333-7503 - had been called 3 times and is
16 subscribed to by Manson QUACH. QUACH changed his telephone
17 number from (415) 334-8478 on June 27, 1995. (In reference to
18 telephone number (415) 334-8478 see above paragraph 86(iii)).

19 ii. (917) 918-0717 - had been called 1 time and is
20 subscribed to by E5 Communications (see above paragraph 86(ix)).

21 iii. (510) 436-6568 - had been called 3 times and is
22 subscribed to by TRAN Ly T. (see above paragraph 86(vii)).

23 iv. ~~(510)~~ 655-4789 - had been called 3 times and is
24 subscribed to Lien Dinh (see above paragraph 86(x)).

25 93. In addition, during the purchase of one unit (700 gms)
26 of heroin, LUONG utilized the telephone bearing this number to
facilitate the sale in New York (see above, paragraph 73).

2) LUONG'S PAGERS

94. I believe LUONG has used the following pagers since
early, 1994:

- (1) (617) 263-9006, for the period 5/94 to 1/95.
- (2) (800) 505-2905, for the period 7/94 to 8/94.
- (3) (800) 709-8276, for the period 1/95 to 3/95.
- (4) (916) 951-1722, for the period 2/95 to the present.

(a) Pager number (617) 263-9006

Pager number (617) 263-9006 is a Pagenet digital pager, subcontracted to Wings Communication, 620 Washington Street, Boston, MA. Boston, FBI has advised the affiant that Wings Communication has been responsible for compromising drug investigations in the past through notification to subscribers of law enforcement interest. In May, 1994, LUONG provided this pager number to CS-4. CS-6 identified this number as the pager known to be carried by LUONG in Boston.

(b) Page number (800) 505-2905

95. Pager number (800) 505-2905 is a Pagenet pager subcontracted to Wings Communication, 620 Washington Street, Boston, MA. On July, 1994, CS-4 was provided pager number (800) 505-2905 as a contact for LUONG during negotiations for a heroin purchase. The details of the July 29, 1994 heroin transaction can be found in paragraph 42.

(c) Pager number (800) 709-8276

96. Pager number (800) 709-8276 is a digital pager. The subscriber information to this pager is unknown at this time. In February, 1995, LUONG utilized this pager during the negotiation

1 and sale of 1/2 unit of heroin to CS-1 and an FBI-UCA. CS-1 and
 2 CS-7 have stated that this pager was being utilized by LUONG
 3 during February, 1995. The details of this heroin transaction
 4 and the pager use is located in paragraph 45.

5 (d) Pager number (916) 951-1722

6 97. Pager number (916) 951-1722 is a Metrocall digital
 7 pager. The pager is subscribed to in the name Huy Chi LUONG,
 8 6939 Mesa Grande, Sacramento, California, but is known to be
 9 carried and utilized by LUONG. On April 17 and 18, 1995, pager
 10 number (916) 951-1722 was utilized by CS-7 to contact LUONG to
 11 arrange the payment of \$10,500 owed in a drug debt to LUONG. In
 12 addition, from June 7, 1995 to the present, this pager number has
 13 been used by LUONG to negotiate the sale of heroin with CS-1 and
 14 CS-7.

15 VI. NEED FOR INTERCEPTION

16 98. The preceding paragraphs which have related the facts
 17 of this case, have outlined the investigative techniques that
 18 have been used thus far in this investigation. These
 19 investigative techniques have succeeded in establishing probable
 20 cause for authorization to intercept wire and electronic
 21 communications as requested herein, but fall far short of
 22 achieving the following goals of this investigation:

23 (i) Identification of cloned cellular telephones
 24 being used by LUONG to facilitate narcotics transactions and
 25 other violations of Federal law;
 26 (ii) determination of the manner, scope and extent
 that the cellular telephone bearing the number (916) 204-6889,

1 and the digital pager bearing numbers (916) 951-1722, are being
2 used by JOHN THAT LUONG to facilitate these offenses;

7 (iv) the dates, times, and places of heroin
8 deliveries and shipments and payments;

9 (v) the identification of communication
10 facilities, including residential telephones, pay telephones,
11 other digital pagers, business telephones and/or cellular
12 telephones commonly used by the co-conspirators to facilitate
13 controlled substance distribution activities;

14 (vi) numeric codes placed in digital pagers by co-
15 conspirators to identify themselves to each other, to identify
16 the quantities of drugs requested for purchase, and/or the prices
17 for illicit drugs;

18 (vii) the manner in which these individuals
19 acquire and use fraudulently cloned or activated cellular
20 telephones;

21 (viii) locations where the subjects and co-
22 conspirators are storing narcotics;

23 (ix) identification of assets being acquired by
24 subjects and co-conspirators through the sale of narcotics; and

25 (x) the precise nature and scope of the illegal
26 activities. In addition, the goals of this investigation are to
intercept communications which are expected to constitute

1 admissible evidence of the commission of the above enumerated
 2 offenses and proof beyond a reasonable doubt of the intent of
 3 each participant to join the conspiracy and to participate
 4 willingly.

5 (A) USE OF CONFIDENTIAL SOURCES/UNDERCOVER AGENTS

6 99. The use of informants and Undercover agents is usually
 7 an important part of FBI investigations into the criminal
 8 activities, particularly narcotics violations. But unless an
 9 informant has been taken into the complete confidence of the
 10 subjects, the informant is unlikely to learn the full scope of
 11 the violators' activities. CS-7 has made direct purchases of
 12 heroin from LUONG, but it is apparent that LUONG has never taken
 13 CS-7 into his confidence with respect to the identity of LUONG's
 14 other customers, the identity of his heroin supplier(s), the
 15 location(s) at which LUONG stores his heroin and proceeds, nor
 16 the volume of heroin he sells. This description of LUONG
 17 coincides with that provided by CS-3, who also never learned of
 18 the identity of LUONG's heroin supplier(s). Your affiant notes
 19 that CS-7 has a credibility problem and not in a position to
 20 attempt to penetrate this organization any further. Although CS-
 21 1, CS-2, CS-4, CS-5, and CS-6 have met with LUONG, they have
 22 never made contact with any of the other upper-level subjects of
 23 this investigation who have acknowledged their involvement in
 24 drug sales.

25 100. Thus far, attempts that have been made to introduce an
 26 undercover agent (UCA) to LUONG or his associates have not been
 successful. As explained above, CS-7's attempt to introduce a

1 UCA was met with a flat refusal by LUONG to consider the
 2 continuation of negotiations for the purchase of heroin. On one
 3 occasion, a UCA was present during the purchase of 1/2 unit of
 4 heroin from LUONG and HOANG LE, but the UCA was unable to meet
 5 with the principal subjects directly due to their cautious
 6 behavior during the transaction.

7 101. Investigators including your affiant, have attempted
 8 to use a number of informants during this investigation. Current
 9 information provided by the Confidential Sources indicates that
 10 LUONG and his associates are still involved in heroin
 11 distribution in several cities throughout the United States, but
 12 their information is generally second hand. At the present time,
 13 there are no sources known to your affiant, with the exception of
 14 CS-7 and CS-3, who have knowledge of the activities of the upper-
 15 level members of this conspiracy, and who are participants in
 16 criminal activities with these individuals. CS-7's limitations
 17 with respect to identifying LUONG's heroin supplier(s) are
 18 outlined above. CS-3 is no longer available for to be
 19 interviewed. None of the other sources have been able to
 20 penetrate this organization to any significant degree, and
 21 certainly not enough to develop a significant prosecutable case
 22 against the mid or upper level members of this group. This is not
 23 surprising in light of the heightened sense of caution on the
 24 part of narcotics distributors who are aware that their drug
 25 couriers/shipments have been seized by law enforcement.

26 102. As CS-3 has reported above, LUONG's organization is
 supported by Vietnamese/Chinese gang members in Boston,

1 Philadelphia, San Francisco, Denver, and Los Angeles. LUONG's
 2 actions have served to create fear on the part of the
 3 Confidential Sources and on the part of would-be sources familiar
 4 with the drug-distribution operation described herein. In
 5 addition, investigating law-enforcement personnel familiar with
 6 this investigation have weighed the information regarding the
 7 LUONG organization in considering efforts to further penetrate
 8 this organization by Sources and undercover agents, and have
 9 concluded that a clear danger to their safety exists. In
 10 addition, the use of Sources, to further penetrate the LUONG
 11 organization would jeopardize other ongoing investigations.
 12

13 103. In your affiant's experience, it is clearly in the
 14 interest of a violator to reveal as little as necessary to others
 15 with whom he deals about the way he conducts his business, to
 16 protect himself from both law enforcement and from other
 17 criminals who may try to interfere with his activities. LUONG has
 18 clearly demonstrated that he believes in this tactic. Even if the
 19 use of an informant or undercover agent successfully develops
 20 evidence that a person is a violator, it is likely that the
 21 evidence will be based on an isolated illegal transaction or
 22 transactions, and fail to disclose and prove the full scope of
 23 the violator's activities in concert with other persons. By
 24 continuing to follow the present course of action, utilizing the
 25 Confidential Sources and physical surveillance, it is reasonable
 26 to assume that additional evidence may be developed against the
 members of this organization. This evidence may be sufficient to
 arrest them for conspiracy, but proof sufficient to secure a

1 conviction would still be lacking. No evidence of the agreement
2 reached between the parties or the details of their operation
3 would exist. It is also conceivable that the identities, and
4 perhaps even the implication of some other coconspirators, might
5 be disclosed during the course of the investigation, although it
6 could not be expected that the full scope of the criminal
7 organization would be obtained thereby.

8 104. In your affiant's experience as an investigator, from
9 training and conversations with other law enforcement officers,
10 it is also your affiant's belief that the upper level members of
11 this organization, including LUONG's as-yet unidentified heroin
12 suppliers, must, of necessity, deal with several other persons
13 who assist them in the purchasing, transportation, packaging,
14 distribution, financing, and storage of controlled substances.
15 There are, however, no informants, including CS-1, CS-2, GS-3,
16 CS-4, CS-5, CS-6 and CS-7 or undercover agents, who reasonably
17 appear likely to be taken into the complete confidence of the
18 members of this organization regarding the extent of this
19 narcotics operation, and who can provide information which will
20 satisfy the goals of this investigation as outlined in paragraph
21 98, above.

22 (B) TOLL RECORDS/PEN REGISTERS

23 105. ~~It is~~ your affiant's belief that a review of toll
24 records for the cloned cellular telephones used by LUONG and the
25 residential telephone of LUONG is possible, but the results will
26 only reveal what numbers are dialed. Analysis of toll records
only reveals what numbers were called from a specific telephone,

1 except in the case of local calls made from the residential
2 telephone in which no record exists at all. Toll record analysis
3 does not indicate the identities of the persons using the
4 telephone, the nature of the conversations, nor do they identify
5 the telephones from which incoming calls are placed. Your affiant
6 has attempted a review of numerous telephones commonly used by
7 LUONG and others, but it was not possible to determine which
8 calls were placed by LUONG. In addition, physical surveillance of
9 LUONG confirms that he uses numerous residential, business,
10 cellular, and public telephones to communicate with others, in an
11 apparent effort to thwart efforts by law enforcement to determine
12 with whom he is in contact.

13 106. Although a pen register has been placed on LUONG's
14 residential telephone, an analysis of these records reveals that
15 LUONG does not appear to utilize this phone, to any great extent,
16 to further his illegal activities. Information from pen registers
17 although of some corroborative value, does not indicate the
18 identities of both parties using the telephones or the nature of
19 their conversations, or the telephone numbers from which incoming
20 calls are placed.

21 107. In addition, LUONG and his associates are known to
22 utilize their pagers to a great extent in the furtherance of
23 their ~~criminal~~ activities. For example, a pager call will be used
24 to notify LUONG that an incoming call will be placed to the clone
25 telephone and for LUONG to activate it in order to receive the
26 call, or a pager call will be placed to LUONG's pager with a
contact number, and LUONG will call back on a convenient

1 telephone and avoid the disclosure of the phone which he is using
2 or his location.

3 (C) BUY-BUST TECHNIQUE

4 108. Investigative agents have given consideration to a
5 "buy-bust" scenario involving the subjects of this investigation.
6 Such a scenario would call for the arrest of the subjects
7 immediately following a purchase of narcotics. Ideally,
8 investigating agents would then enlist the subjects' cooperation
9 and attempt to develop a prosecutable case against all of the
10 other members of this conspiracy. However, if the investigating
11 agents pursue this option, there will be no assurances that co-
12 conspirators would, in fact, agree to cooperate with the
13 investigators and therefore, there would be a serious risk of
14 compromising the investigation. In your affiant's experience,
15 this option rarely results in the achievement of the goals as
16 specified herein.

17 109. Another option that your affiant has considered is to
18 wait until individuals identified as upper-level members of this
19 conspiracy pick up deliveries of heroin and attempt by
20 surveillance to identify the supplier. Even if successful, your
21 affiant believes that such surveillance is subject to failure for
22 a number of reasons. The evidence yielded from such an exchange
23 would be ~~probative~~ only of the supplier's attendance at a meeting
24 to deliver an item. The proof that the supplier knew the
25 contents of the package was a controlled substance would be
26 lacking. Such an operation, while "successful" in obtaining
evidence against the supplier, would be unlikely to succeed in

yielding admissible evidence sufficient to obtain a conviction of any other participants.

(D) PHYSICAL SURVEILLANCE

110. Narcotics violators typically act in a way designed to conceal the nature of their conduct. As a result, surveillance is only effective to corroborate other indications of illegal conduct or provide leads to further the investigation. By itself, surveillance is not reasonably likely to succeed in developing evidence of substantial illegal narcotics trafficking. Your affiant and other agents of the FBI, as well as other law enforcement agencies, have been conducting physical surveillance of the subjects of this investigation since early in 1994. Philadelphia and Boston FBI have conducted numerous surveillances of LUONG and his associates within those jurisdictions. The surveillances have included the coverage of heroin purchases by Confidential Sources from LUONG, AH MOUI, and their underlings. Surveillances have shown that LUONG is constantly on the lookout for surveillance and employs aggressive countersurveillance techniques.

111. LUONG has demonstrated his ability to elude a surveillance and has shown that he is extremely cautious whenever dealing with those who purchase drugs from him. For example, on February ~~10~~, 1995, FBI, CDOJ and OPD officers and agents surveilled the purchase of 1/2 unit of heroin from HOANG LE and LUONG through a broker. LUONG and HOANG LE were extremely cautious in an attempt to insure that their participation in the drug transaction was not discovered. They were observed in two

1 different vehicles when making the delivery of drugs and picking
2 up the money in payment for the drugs. In addition, LUONG and
3 HOÀNG LE appeared to conduct countersurveillance during the
4 transaction. Also on February 28, 1995, information was received
5 from CS-1 that LUONG was in San Francisco to deliver drugs to an
6 associate. Surveillance was initiated at the location where CS-1
7 advised that LUONG was located. After the meeting Agents of the
8 FBI and CDOJ attempted to follow LUONG in order to obtain LUONG's
9 identity and place of residence. During the course of the
10 surveillance, the vehicle in which LUONG was travelling was
11 stopped by the California Highway Patrol for exceeding the posted
12 speed limit. The person known to be LUONG provided a false name
13 and stated that he did not carry any type of identification. The
14 vehicle then continued on to the Sacramento city limits, at which
15 time the vehicle containing LUONG executed several evasive moves
16 in an obvious attempt to detect and evade the surveillance.
17 Later that evening, LUONG reported to CS-7 that he believed he
18 was followed from San Francisco. CS-7 has also reported that
19 LUONG will "lay low" if he believes law enforcement is
20 surveilling him, and his normal activities will be curtailed. In
21 addition, LUONG frequents Vietnamese/Chinese businesses and areas
22 which make it extremely difficult for law enforcement to surveil
23 him without detection. For example on April 18, 1995, Sacramento
24 FBI surveilled LUONG prior to an appointed meeting with CS-7 in
25 San Francisco for the purpose of repaying a drug debt. LUONG's
26 wife exited their residence at 8000 Rush River Drive, Sacramento,
California and surveyed the parking lot. She was then observed

1 re-entering the building and a short time later exited again with
2 LUONG. The couple was observed travelling to a Chinese
3 restaurant. Surveilling agents attempted to verify the couple's
4 location and immediately noted that their appearance was out of
5 place at this particular location, so much so that when they
6 entered the restaurant, LUONG's wife appeared to point the agents
7 out to LUONG. Soon after this surveillance, LUONG advised CS-7
8 that he would not be doing "anything" for a while since it
9 appeared that he was being watched by law enforcement. During
10 the meeting between CS-1 and LUONG on July 11, 1995, LUONG was
11 observed cruising through the parking lot to detect surveillance.
12 CS-1 reported that LUONG drove down dead end streets and made U-
13 turns to see if anyone was following him, prior to arriving at
14 the site of the meeting.

112. Based on experience and conversations with other law enforcement agents, your affiant is aware that sophisticated narcotics traffickers are, in general, usually sensitive to the possibility of surveillance and other law enforcement involvement in their activities. Any prolonged or regular surveillance of the movements of the subjects would most likely be noticed, causing the subjects to become more cautious in their illegal activities, or flee to avoid further investigation and prosecution.

(E) SEARCH WARRANTS

25 113. At this stage of the investigation, without additional
26 information from electronic and wire surveillance and other
sources, the execution of search warrants in this matter could

1 not reasonably be expected to produce incriminating evidence of
2 the full scope of the co-conspirators' narcotics activities, nor
3 would this technique be likely to identify the other co-
4 conspirators involved. Members of this conspiracy have not
5 disclosed the storage location for their contraband to any of the
6 sources described herein, although there have been some
7 indications developed from investigation to date that LUONG may
8 be storing heroin at a location near to his residence. However,
9 the subjects of this investigation are not believed to be holding
10 on to their contraband for an extensive length of time, but
11 rather, negotiate deals between buyer and seller as quickly as
12 possible. Furthermore, such searches at this stage of the
13 investigation would be unlikely to reveal the total scope of the
14 narcotics operation and the identities of the co-conspirators.
15 It is unlikely that all, or even any, of the principals of this
16 organization would be at any one location when a Search Warrant
17 was executed. It is believed that Search Warrants, executed at
18 this time, would be more likely to compromise the investigation
19 by alerting the principals of the investigation and, thereby
20 allow suppliers and other unidentified members of the conspiracy
21 to further insulate themselves from successful detection, and to
22 otherwise frustrate the purposes of this investigation.

23 (F) USE OF THE GRAND JURY

24 114. I have met with assistant U.S. Attorneys, Northern
25 District of California, and discussed the possibility of
26 initiating a Federal Grand Jury investigation into the illegal
activities of LUONG, and others. I believe that use of a Federal

1 Grand Jury probably would be of limited utility at this time in
2 achieving the above-stated investigative goals for the following
3 reasons:

4 (a) Subjects of the investigation, should they be
5 called to testify, would most likely invoke their Fifth Amendment
6 privileges. Furthermore, subpoenaing the subjects would alert
7 them to the ongoing Federal investigation, thus presenting a
8 danger to those individuals who have cooperated in this matter;

9 (b) It would be unwise to seek Grand Jury immunity for
10 any of the subjects named herein as it might foreclose
11 prosecution of the most culpable persons;

12 (c) Grand Jury testimony by the information sources at
13 this time would lead only to a limited prosecution, allowing key
14 members of this organization to go unidentified and unprosecuted.
15 Further, such testimony at this stage of the investigation would
16 fail to identify the methods of operation of this organization,
17 as well as the location of the bulk of assets which
18 coconspirators have undoubtedly accumulated as a result of their
19 activities.

20 (d) It would be difficult to question witnesses without
21 having detailed information about this organization.

22 115. The individuals who have been identified in this
23 ~~conspiracy~~ are believed by your affiant to have been involved in
24 the sale of narcotics and other criminal activities for a long
25 time and would, in the opinion of your affiant, be unlikely to
26 cooperate with law enforcement. Therefore, a Grand Jury
investigation with grants of immunity appears reasonably unlikely

1 to succeed.

2 (G) INTERVIEWS

3 * 116. As discussed above, the subjects of this investigation
4 do not reveal information to people who are not part of their
5 criminal conspiracy. As a result, interviews would not be
6 productive in that only the subjects of this investigation have
7 the information needed by law enforcement authorities. In
8 addition, it appears that members of this conspiracy are careful
9 not to reveal the full extent of their operation to any one
10 individual. Attempts to interview such individuals would only
11 result in their being alerted to the existence of the
12 investigation.

13 117. For the reasons set out above, it is your affiant's
14 opinion that all normal investigative procedures available to law
15 enforcement in the investigation of these narcotics violators are
16 not reasonably likely to succeed if tried or are too dangerous to
17 employ. It appears reasonable that the next step in this
18 investigation, to aid in achieving the goals as stated in
19 paragraph 98, above, is the interception of wire communications
20 as requested herein. Normal investigative procedures have not
21 and cannot succeed in accomplishing the stated goals.

22 VII. ESN READER REQUEST

23 118. ~~As~~ indicated above, LUONG has used both cloned
24 cellular telephones and telephones subscribe to nominee
25 subscribers. He intentionally changes cellular telephones
26 frequently to thwart the type of electronic surveillance
requested in this Application. Each time he switches telephones,

1 our investigation is stalled until we can identify through
2 informants, surveillance, pen registers, and cellular telephone
3 and toll records the telephone number of his new cellular
4 telephone. This invariably takes a substantial amount of time
5 because of the delays in searching telephone company records, the
6 need to see patterns of calls and pages over a period of days or
7 weeks, and the partial success of JOHN THAT LUONG's efforts to
8 avoid law enforcement surveillance through countersurveillance,
9 use of multiple telephones and pagers, and avoiding the use of
10 his true name in contacts with law enforcement and as the
11 subscriber to these services.

12 119. We therefore request authorization pursuant to 18
13 U.S.C. Section 3123 and the All Writs Act to use an Electronic
14 Serial Number (ESN) reader to assist in identifying the cellular
15 telephones being used by JOHN THAT LUONG. An ESN reader captures
16 data from various cellular telephones being used in a given area.
17 This data can include the Electronic Serial Number (ESN), the
18 Mobile Identification Number (MIN) (which is the same as a
19 telephone number), the "off hook" and "on hook" times, the
20 telephone numbers dialed from a cellular telephone, and the
21 telephone numbers of cellular telephones making incoming calls to
22 a cellular telephone. Some of the devices that can read
23 electronic serial numbers can also intercept the conversations
24 occurring over cellular telephones. We do not intend to or seek
25 authorization to intercept conversations with the ESN reader; any
26 conversations to be intercepted will be based upon the court's
authorization to intercept the wire communications of JOHN THAT

1 LUONG and others. Through analysis of the data obtained, agents
2 can attempt to identify the cellular telephone(s) being used by
3 JOHN THAT LUONG and the others named above. The use of the ESN
4 reader therefore, is relevant and important to this
5 investigation.

6 VIII. MINIMIZATION

7 120. All wire interceptions will be minimized in accordance
8 with the minimization requirements of Chapter 119 of Title 18,
9 United States Code. If any of the named interceptees or any of
10 their identified confederates are determined to be participants
11 in a conversation intercepted on cellular telephone number (916)
12 204-6889, either through voice identification, physical
13 surveillance or by other means, interception will be suspended
14 immediately, provided the overheard portion of the conversation
15 is not criminal in nature. Even if one or more of the named
16 interceptees or their confederates, when identified, is a
17 participant in a conversation on this telephone, monitoring will
18 be suspended if the conversation is not criminal in nature or
19 otherwise related to the offenses under investigation.

20 121. It is anticipated that most of the conversations to be
21 intercepted will be spoken in the Vietnamese and Cantonese-
22 Chinese language. Therefore, it is expected that an expert in
23 those ~~languages~~ will be available for translation whenever
24 possible. Pursuant to Title 18, United States Code, Section
25 2518(5), the following minimization procedures have been
26 established:

a. Unless Vietnamese or Cantonese-Chinese translators

are reasonably available to minimize conversations on the spot, all such conversations will be intercepted and recorded in their entireties.

b. In the event the translator is not a federal agent, the translator, whether he be a language trained support employee or under contract to the government, will be under the supervision of a federal agent;

c. Conversations monitored by the translator under the guidance of a federal agent will be minimized by the translator and an English translation of the pertinent criminal conversations will be furnished to the supervising agent.

122. Affiant believes that this procedure, which provides for after-the fact minimization where codes or foreign languages are used by the interceptees and there is no expert reasonably available to translate the conversation, complies with Title 18, United States Code, Section 2518(5) and its provisions for specialized minimization procedures when intercepting foreign language or coded conversations.

X. FINAL MATTERS

PRIOR APPLICATIONS

123. A review conducted of electronic and wire surveillance indices ~~of~~ the FBI and the Drug Enforcement Administration (the "DEA"), on July 7, 1995, reveals no prior applications for a Court order authorizing or approving the interception of wire, oral, or electronic communications involving the persons, facilities, and/or premises specified in this application.

LENGTH OF INTERCEPTION

124. The Application for which this Affidavit is submitted in support thereof seeks authorization to intercept electronic and wire communications for a thirty (30) day period concerning offenses listed previously in paragraph 7, above. For reasons stated in this Affidavit, it is your affiant's belief, based upon experience, that these persons will use and continue to use the cellular telephone number (916) 204-6889 for these purposes. Because of the continuing nature of the above-described offenses, and in order to determine the full scope of the organization under investigation and to achieve the goals of the investigation as specified herein, it is requested that the interception of wire communications not cease when the type of communications described above are first intercepted, but continue until the objectives of this investigation are accomplished, not to exceed a period of thirty (30) days.

EXPENSES

125. Any reasonable expenses necessarily incurred pursuant to a Court Order under Section 2518 (4)(e) of Title 18, United States Code, relating to the technical assistance rendered to the Government by a communications service provider or other persons, will be processed by the FBI for payment by the United States Government, unless the Court should direct otherwise.

CONCLUSION

126. Wherefore, based upon the facts and circumstances related above and my experience as a Special Agent of the FBI, I believe that Probable Cause exists to permit the issuance of an

1 Order to Intercept Wire Communications, and that Order should not
2 terminate on the first interception that reveals the manner in
3 which JOHN THAT LUONG, TUAN THANH NGUYEN, XUANG MANH QUACH, HUY
4 CHI LUONG, and others as yet unknown conduct their illegal
5 activities, but should continue until objectives of this
6 investigation, as specified in paragraph 98, are accomplished, or
7 for the total period of thirty (30) days, whichever is earlier.
8 It is requested that this ~~thirty~~ (30) day period run from the
9 earlier of the date on which the investigative or law enforcement
10 officer first begins to conduct the interception or ten (10) days
11 from the date of this Order.

12 
13 Carol K.O. Lee
14 CAROL K.O. LEE
Special Agent
Federal Bureau of Investigation

15 SUBSCRIBED and SWORN to before me
16 this 1st day of August

17 
18 Jeffrey A. Johnson
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
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26